



August 7, 2013

Federal Communications Commission

445 12th Street, S.W.
Washington, D.C. 20554

Re: *In the Matter of Accessibility of User Interfaces, and Video Programming Guides and Menus, MB Docket No. 12-108, Notice of Proposed Rulemaking (FCC 13-77)*

Dear Commissioners:

Montgomery County Public Schools Television submits this letter in the above-referenced rulemaking proceeding (NPRM) in response to comments filed by: Montgomery County, MD; National Association of Counties, National Association of Telecommunications Officers and Advisors, and the United States Conference of Mayors; and the Alliance for Communications Democracy.

Montgomery County Public Schools TV is an educational access facility that provides informational and instructional programs to the Montgomery County Community. It operates one cable channel, 16 hours daily on the cable systems in Montgomery County, Maryland for Comcast, Verizon and RCN.

We produce and air 650 hours of original locally produced programs on our cable channel each year and air 1700 hours of acquired programming that is educationally based and related to our mission statement. Most of our locally produced programs are captioned with emphasis on captioning all of the Board of Education meetings and our popular live call in video program to help students grades K – 12 with their homework, called Homework Hotline Live! These captioned programs account for more than 300 hours of our local programming.

Additionally, we caption other video programs to the community such as the Student Town Hall Meeting where the Superintendent of Schools takes live questions from a student audience, and a Superintendent's Book Club where our superintendent leads a panel discussion with various authors and guests to discuss the latest trends in public education. However, to date, none of our current program listings including our captioned versions of TV program offerings appears on the electronic program guides as listed by Verizon.

We have program descriptions and accessibility information readily available for our programs with accessibility options. However, currently, the MVPD lists us in a generic listing

as “local programming” which does not provide the public with the proper information or options for viewing our captioned programming.

This level of information is inadequate to meet the accessibility goals of the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA). We have repeatedly asked Verizon to carry the specific listings of our TV programming for the past 3 years and they have refused. In 2013, County Councilman Hans Reimer also asked Verizon to carry all Montgomery County PEG programming on its electronic program guide with the proper listings as well. To date, there has been no apparent change in policy. MCPS-TV is still not being listed with the proper programming information on the Verizon electronic program guide as requested and needed. Without the proper programming information, Verizon viewers cannot determine from the video programming guide what our programs are and whether our programs are accessible. Thus, viewers with visual or auditory disabilities cannot make meaningful video program choices.

The Video Programming Accessibility Advisory Committee (VPAAC) identified “Channel / Program Selection” and “Display Channel / Program Information” among the essential functions covered by CVAA,¹ and also expressed concern that “[o]ften it is impossible to determine the accessibility of a program (whether it provides captioning or video description) until after watching a set of previews and/or advertisements. This can lead to frustration on the part of users dependent on such capabilities as they attempt to locate programming that meets their accessibility needs.”² The VPAAC identified that “[a] more accessible and usable solution for deaf or hard of hearing and blind or vision impaired users would provide clear identification of the accessibility options that are available for a program *prior to viewing, such as labeling the program as having captions and/or video description within the mechanism used to display channel / program information.*”³ We urge the Commission to adopt this approach and note that it is even more difficult to locate programming that meets viewers’ accessibility needs if neither the name of the program nor the closed captioning label is included on the video programming guide.

At paragraph 36 of the NPRM, the Commission asks: “Does Section 205 provide us authority to require that MVPDs provide programming description information in programming guides for local programs and channels for the purpose of promoting accessibility?”

We believe the Commission has direct authority under the CVAA to require cable operators to include high level channel and program descriptions or titles, as well as a symbol identifying the programs with accessibility options (captioning and video description) on video programming guides. By enacting the CVAA, Congress has already decided that user interfaces and video programming guides and menus are essential to making video services accessible and it has given the Commission direct responsibility to make them accessible. At a minimum this authority allows the Commission to require that MVPDs provide programming description

¹ Second Report of the Video Programming Accessibility Advisory Committee on the Twenty-First Century Communications and Video Accessibility Act of 2010: User Interfaces, and Video Programming Guides and Menus (April 9, 2012) (“Report”) at 8.

² Report at 18.

³ *Id.* (emphasis added).

information in programming guides for local programs and channels with accessibility options. However, we also believe that the Commission has authority, or could exercise ancillary authority, to require that MVPDs include programming description information in programming guides for all local programs and channels because the Commission is authorized to make essential functions such as “Channel / Program Selection” and “Display Channel / Program Information” accessible, and to make this accessibility meaningful, the program guides should include a minimum level of program and channel information.

More than a dozen years ago, when the Commission adopted rules to implement Section 255 of the *Communications Act*, 47 USC § 255, to make telecommunications services accessible, the Commission also exercised its ancillary authority to include within the accessibility requirements two non-telecommunications services – voicemail and interactive menus.⁴ Having been charged by Congress to ensure that telecommunications services and equipment are accessible and usable by persons with disabilities, the Commission could not “carry out meaningfully the accessibility requirements”⁵ or “fully achieve that objective without this limited use of [its] ancillary jurisdiction.”⁶ Similarly, we believe that that the Commission cannot carry out meaningfully the accessibility requirements of the CVAA – to make user interfaces and video programming menus on digital video programming apparatus, and menus and video programming guides provided by navigation devices accessible to people who are blind or visually impaired – or fully achieve that objective without this limited use of the Commission’s ancillary jurisdiction to require that that MVPDs provide programming description information in programming guides for local programs and channels for the purpose of promoting accessibility.

Therefore, we urge the Commission to adopt rules that would require video programming guides and menus which display channel and program information include, for all channels, high level channel and program descriptions and titles, as well as a symbol identifying the programs with accessibility options (captioning and video description).

Thank you for the opportunity to submit these comments.

Dr. Dick Lipsky, ITV

⁴ See 47 CFR Part 7.

⁵ *Id.*

⁶ *Id.*